

**Notice of Allowability**

Application No.

09/595,947

Examiner

Chih-Min Kam

Applicant(s)

ICARD-LIEPKALNS ET AL.

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/20/05.
2. ☒ The allowed claim(s) is/are 6,8,9,21,22,24,26-30,40 and 42-46.
3. ☒ The drawings filed on 16 June 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/331,358.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>20050504</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                    |
|   | 9. <input type="checkbox"/> Other _____  |

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An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jonathan Dermott on May 4, 2005.

**Examiner's Amendments to the specification:**

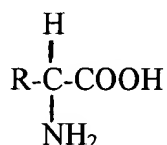
Please replace the paragraph at page 1, line 5 with the following paragraph:

This application is a Continuation-in-part of application 09/331,356 filed July 12, 1999, now abandoned, which is a 35 U.S.C. §371 application of PCT/FR97/02368 filed December 19, 1997. This application claims the benefit of foreign priority under 35 U.S.C. §119(a) to application FR96/15651 filed in France on December 19, 1996.

Please replace the term "Figure 5:" with the term "Figures. 5a and 5b:" at page 11, line 11.

Please replace the term "Figure 7:" with the term "Figures. 7a-7h:" at page 12, line 21.

Please replace the structure at page 22, lines 2-7 with the following structure:



Please replace the abstract filed June 16, 2000 with the following abstract on a separate sheet:

## ABSTRACT

The present invention relates to nucleic acids that encode novel basic helix-loop-helix polypeptides. The present invention also relates to novel basic helix-loop-helix polypeptides, in particular, rat Relax and human ngn3 polypeptides. The invention also relates to methods for the detection of nucleic acids and polypeptides according to the invention. The invention also relates to methods for the detection of activators or inhibitors of the polypeptides of the invention. Finally, the present invention relates to methods of prevention and/or treatment of pathologies, dysfunctions, disorders or conditions affecting the nervous system.

**Examiner's Amendments to the Claims:**

Claims 6, 8, 9, 40 and 42-46 been amended as follows:

6. (Currently amended) An isolated nucleic acid comprising a polynucleotide sequence as depicted in SEQ ID NO: 1, or ~~of~~ a complementary polynucleotide sequence of said isolated nucleic acid.
8. (Currently amended) The isolated nucleic acid according to claim 6, wherein the nucleic acid further comprises a marker ~~compound~~ nucleotide sequence.
9. (Currently amended) A nucleotide probe ~~or primer~~ specific for ~~an~~ a neurogenin 3 (ngn3) nucleic acid, wherein the nucleotide probe ~~or primer~~ comprises SEQ ID NO: 1, or ~~of~~ a complementary polynucleotide sequence of SEQ ID NO: 1, ~~wherein the nucleotide probe or primer comprises a marker compound.~~
40. (Currently amended) A ~~pharmaceutical~~ composition comprising the nucleic acid according to claim 6 and ~~a physiologically compatible~~ an excipient.
42. (Currently amended) A ~~pharmaceutical~~ composition comprising the recombinant vector according to claim 21 and ~~a physiologically compatible~~ an excipient.
43. (Currently amended) A ~~pharmaceutical~~ composition comprising the nucleic acid according to claim 27 and ~~a physiologically compatible~~ an excipient.
44. (Original) A ~~pharmaceutical~~ composition comprising the recombinant vector according to claim 28 and ~~a physiologically compatible~~ an excipient.
45. (Currently amended) A ~~pharmaceutical~~ composition comprising the recombinant host cell according to claim 29 and ~~a physiologically compatible~~ an excipient.

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46. (Currently amended) A ~~pharmaceutical~~ composition comprising the recombinant host cell according to claim 30 and a ~~physiologically compatible~~ an excipient.

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02. The oath or declaration is defective because it indicates the instant application claims the benefits of PCT/FR97/02368 under 35 USC 119 (a)-(d), which should be under 35 USC 120.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached at 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

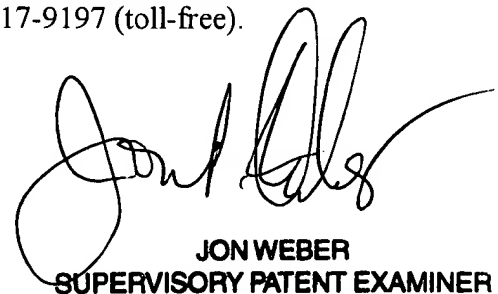
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chih-Min Kam, Ph. D.

Patent Examiner

CMK

May 4, 2005



**JON WEBER**  
**SUPERVISORY PATENT EXAMINER**